

REMARKS

Reconsideration and withdrawal of all grounds of rejection are respectfully requested in light of the above amendments and the following remarks. Claims 1-2 and 6 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over JP1355617 in view of Yamaguchi et al. (U.S. Patent No. 5,912,721) in view further of Lyons et al. (U.S. Patent No. 6,411,209). Claim 6 has been canceled without prejudice. Claims 1-2 are pending herein.

Claim 6 stands objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2. Since claim 6 has been canceled, the objection is moot and applicants respectfully request removal of this objection.

Applicant respectfully disagrees with, and explicitly traverses, the examiner's reason for rejecting the claims. A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Independent claim 1 is directed to a device for remotely controlling a camera having a lens, said device comprising: a monitor operable to display a field of view of the lens, the field of view including images of a plurality of objects; a processor configured to determine a first image of the images of the plurality of objects that is being gazed upon by a viewer by generating an image of the viewer's face, use a pattern recognition technique on the image of the viewer's face to determine an orientation of the pupils of the viewer's eyes wherein a recognition of an outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes, use a non-parametric model for background subtraction to extract the first image; and a touch screen operable to provide one or more signals indicative of a viewer pointing on the touch screen in a direction of the first image for selectively adjusting a zoom and a focus of the lens in a direction of the first image.

As admitted by the examiner, JP1355617 fails to disclose a "a processor configured to determine a first image of the images of the plurality of objects that is being gazed upon by a viewer by generating an image of the viewer's face, use a pattern recognition technique on the image of the viewer's face to determine an orientation of the pupils of the viewer's eyes wherein a recognition of an outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes..." The examiner further refers to the Yamaguchi, Figs 23a-23b and col. 22, line 45 – col. 24, line 53 to show these limitations.

Yamaguchi teaches a gaze detection apparatus and its method as well as information display apparatus. However, Yamaguchi teaches that " certain candidates for the eye and mouth regions which have color attributes different from those of the skin-color regions.. [which are used to] collate the selected regions with gray-scale patters such as the eyes and mouth, thus determining eye regions..." (see col. 23, lines 9-24). Accordingly, the device of Yamaguchi fails to teach or suggest that " to determine an orientation of the pupils of the viewer's eyes wherein a recognition of a outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes."

Neither JP1355617 nor Yamaguchi nor Davis, individually or in combination, discloses or suggests all the elements of the present invention. Further, even if the devices of JP1355617, Yamaguchi and Davis were combined, as suggested by the examiner, the combined device would not disclose all the elements of the invention recited in claim 1 and would not perform the steps disclosed. The combination of JP1355617, Yamaguchi and Davis would not contain determine an orientation of the pupils of the viewer's eyes wherein a recognition of a outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes.

Having shown that the combined device resulting from the teachings of the cited references does not include all the elements of the present invention, applicant submits that the reasons for the examiner's rejections of the claims have been overcome and can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of the claims.

In the matter of obviousness there is a great emphasis placed on "the importance of the motivation to combine." For example, the court in Yamanouchi Pharmaceutical Co. v. Danbury Pharmacal, Inc. 231 F. 3d. 1339, 56 USPQ2d. 1641, 1644 (Fed. Cir. 2000) found that:

an examiner ... may often find every element of a claimed invention in the prior art. If identification of each claimed element of the prior art was sufficient to negate patentability, very few patents would ever issue. Furthermore rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner ... to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention ... To counter this potential weakness in the obviousness construct, the suggestion to combine requirements stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness. *id.* quoting *In re Rouffet*, 149 F.3d 1350, 1357-58, 47 USPQ 2d 1453, 1457 (Fed. Cir. 1998)

In this case, applicant believes that with regard to the referred-to claims, the examiner has impermissibly incorporated the teachings of the present invention in the cited reference to reject the claims. Accordingly, applicant submits that the reasons for the examiner's rejections of the claims have been

overcome and the rejection can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of the claims.

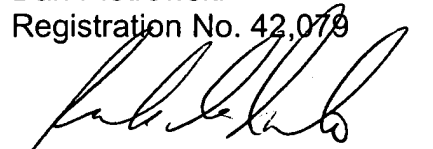
Applicants respectfully submit JP1355617, Yamaguchi and Davis., alone or in combination, fail to teach, show or imply all of the limitation of the present invention.

All claims dependent from the independent claims discussed above are believed to be allowable at least for dependency there from, and for separate reasons of patentability.

The applicants submit that the claims, as they now stand, fully satisfy the requirements of 35 U.S.C. 103. In view of the foregoing amendments and remarks, favorable reconsideration and early passage to issue of the present application are respectfully solicited.

Respectfully submitted,

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